



3-7-04

1654

3412/1A/US (PHA 4140.6)
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Mark G. Obukowicz et al. Art Unit 1654
Serial No. 10/022,320
Filed December 13, 2001
Confirmation No. 4956
For SELECTIVE COX-2 INHIBITION FROM NON-EDIBLE PLANT EXTRACTS
Examiner Randall O. Winston

March 1, 2004

RESPONSE TO ELECTION OF SPECIES

COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Arlington, VA 22313-1450

SIR:

This letter is in response to the Office action dated January 30, 2004, in which an additional election of species requirement for Group I claims was requested.

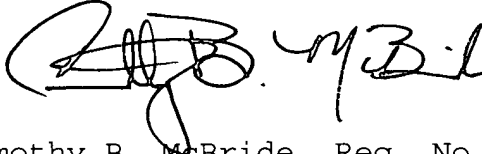
In response to the Examiner's request to elect a single disclosed species from Group I, Applicants elect the plant genus Mahonia. Claims 1, 2, 3, 22, and 23 read on the elected species.

According to M.P.E.P. §809.02(c), an Examiner's action subsequent to an election of species should include a complete action on the merits of all claims readable on the elected species, and according to M.P.E.P. §809.02(e), whenever a generic claim is found to be allowable in substance, action on the species claims shall thereupon be given as if the generic claim were allowed. Thus, if it is determined that the elected species is patentable, it is incumbent upon the Office to search additional species that fall within any allowable generic claims.

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The Commissioner is hereby authorized to charge any
underpayment or credit any overpayment to Deposit Account No.
19-1345.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'TBM' followed by a stylized flourish.

Timothy B. McBride, Reg. No. 47,781
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TBM/sxm

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